

Examine how changing Massachusetts laws concerning the enlistment of men of color in the military affected their opportunities to serve during the Revolution as well as their chances of being emancipated, if enslaved. Were those who were enslaved during their enlistment emancipated because of their military service? If so, was emancipation immediate or at the end of their enlistment?

Conversely, did slave owners use their slaves as substitutes for their own military service? Did slave owners enlist their slaves in order to obtain the bounties? Were the recruitment bounties different for men of color than for white men?

This is a complicated question with no single answer. While enslaved men can certainly be documented as having served in the American armies during the Revolutionary War, the actual legality surrounding the enlistment of such soldiers of color is ambiguous. Secondary sources are rife with statements claiming that enslaved men routinely received their freedom in exchange for enlisting in the American army during the Revolutionary War. Most of these sources draw a tenuous connection between an individual's previously enslaved status, his military service, and subsequent post-war freedom. The thinking is this: if an enslaved man enlisted in the army and can later be documented as a freeman, then manumission must have been a result of military service. But is this a safe assumption?

One example of this kind of reasoning is found in the case of Peter Salem. One of the most well-known soldiers of color from Massachusetts, Peter Salem's name appears on the pay roll for Captain Simon Edgell's Framingham minute company which marched on April 19, 1775. Salem continued to serve in the Continental Army almost continuously until his discharge in March 1780. Writing in 1887, local historian and antiquarian J.H. Temple asserted that Salem's enlistment served as the catalyst for his manumission: "as no *slave* could be mustered into the army, his enlistment by consent of his master, worked as a practical emancipation." But the simple fact remains that the surviving documentation does not indicate when or under what circumstances Peter Salem became free. While it is possible he was manumitted in order to join the Framingham minute company, it is just as possible that he was already free when he did so.¹

Temple's statements concerning Peter Salem reveal the interlocking series of questions that lay at the heart of this problem: was it legal for slaves to enlist in the army? Could slaves receive their freedom for doing so? And did military service function as a "practical emancipation?" Between 1775 and 1783, the legality of enlisting slaves into the army fluctuated several times. Throughout the Revolutionary War, different regulations regarding the enlistment of men of color were promulgated by the Continental Congress, the Massachusetts state government, and various army officers. These various regulations frequently overlapped and often appear to contradict one another, making it difficult to establish a clear narrative framework concerning the presence of enslaved men in American forces. On top of this, historians often conflate local laws limiting participation by men of color in colonial militias with broader regulations governing the enlistment of enslaved men into colonial armies at the state and continental level. The first step

¹ J.H. Temple, *History of Framingham, Massachusetts, Early Known as Danforth's Farms, 1640-1880, with a Genealogical Register* (Published by the town, 1887), p. 324. Note that Quintal, *Patriots of Color*, p. 190, avoids this pitfall.

in untangling this web requires a close examination of the relationship between men of color and the militia in colonial Massachusetts.

Governed by a convoluted series of laws dating back to 1693, the Massachusetts militia served two functions within the colony. First, it mandated that adult men own and maintain firearms and provided training in the rudiments of military discipline. Second, the militia served as a network to help organize an armed force capable of defending the colony during military emergencies. To be sure, militia laws explicitly forbade “Indians and negro’s” from taking part in mandatory military training days that constituted the militia’s first role. But militia laws went on to stipulate that “every listed souldier and *other householder*... shall always be provided with a well fixt firelock musket,” indicating that free men of color, at least, were required to equip themselves with arms and ammunition according to law. In 1709, the legislature addressed this ambiguity by clarifying that all “free male negro’s or molattos” would be exempt from military training but would still be required to “make their appearance” with their local militia companies “in case of alarm.” Evidence from probate inventories indicates that free men of color respected these laws and equipped themselves with the requisite firearms and accoutrements. For example, the inventory of Sash, a manumitted slave who died in Bridgewater in 1730, listed one gun among his possessions.²

While the law was silent on the status of enslaved men of color with regard to the militia, it did specify that “heads of household” and “masters” would be responsible for equipping “sons under age” and “servants” with the required arms and ammunition. Curiously, the law specified that masters would not be responsible for “servants upon wages.” While this provision may have been intended to cover only white indentured servants serving for a set of years rather than for pay, it could also be understood to include enslaved men of color, who were often referred to as “servants for life” in period terminology. Whatever the case, the colonial laws regulating the militia were so unclear on the matter that it is highly likely that enslaved men of color participated in militia in its role as a provincial military force, either as participants in local alarms or as servants to white officers.³

These laws remained in effect throughout the first three-quarters of the eighteenth century. Although in 1774 the Provincial Congress recommended that each town reorganize their militia companies by removing crown-appointed officers and by raising minute companies, no actions were taken to restrict the presence of men of color in the militia ranks. Thus, when the alarm

² “An Act for Regulating the Militia,” November 22, 1693, *The Acts & Resolves, Public and Private, of the Province of the Massachusetts Bay*... 21 vols. (Boston: Wright and Potter, 1869-1922), v. 1, pp. 128. For a sampling of other pre-1774 laws regulating the colonial militia, see *Acts & Resolves*, v. 1, pp. 217, 267, 396, 493, 684; v. II, p. 939; v. III, pp. 34, 924; and v. IV, p. 51, 120. The 1709 “Act regulating Free Negro’s & c.” can be found in *Acts & Resolves*, v. 1, p. 606. For an inventory of Sash’s estate, see entry in Plymouth County Probate Record Books, v. 6, p. 121, Judicial Archives of Massachusetts, Massachusetts Archives.

³ The largest militia alarm in pre-Revolutionary Massachusetts occurred after French forces captured Fort William Henry in August 1757. The rolls for this alarm are found in: *Massachusetts Archives Collection* (SC1/Series 45X), vols. 76 and 77; a systematic examination of these records will undoubtedly reveal the presence of men of color. The Fort William Henry alarm has largely gone unstudied by historians. For two brief examples, see: Ian K. Steele, *Betrayals: Fort William Henry and the “Massacre”* (New York: Oxford University Press, 1990), p. 127 and Lawrence H. Gipson, *The British Empire Before the American Revolution*, vol. 7: *The Great War for Empire: The Victorious Years, 1758-1760* (New York, 1967), p. 88.

occasioned by the British army's expedition into the countryside spread across Massachusetts on April 19, 1775, local militia companies responded as they had been instructed to for decades by mustering all able-bodied men capable of bearing arms—including free and enslaved men of color. At least eight men of color were members of local minute companies, and perhaps as many as forty others marched with colonial militia companies in response to the alarm.⁴

The Massachusetts legislature did not find time to further organize the provincial militia until January 1776. The new law streamlined the old system that had been in place for almost a century. Again, the legislature specifically forbade “negroes, Indians and moulatoes” from participating in “that part of the militia of this colony, commonly called the training-band” but left the actual status of these individuals with regard to military service ambiguous. In November 1776, the legislature went on to clarify that militia officers could not force “Indians, negroes and molatoes... to take up arms, or procure any person to do it in their room.” This law—often cited as evidence that Massachusetts deliberately excluded men of color from military service—was in fact designed to prevent local officials from drafting or impressing African and Indian men into military service. Presumably this was done because no provision had been made for arming or training men of color and the state wanted to avoid the expenditures that would accompany the impressment of unarmed men.⁵

Throughout the Revolutionary period, then, the relationship between men of color and service in the state's militia remained in flux. Although men of color were prohibited from participating in military training, no state laws specifically excluded them from serving in American forces during the war. Although Massachusetts officials were unsure to what degree men of color should be allowed to participate in military service, the state's militia laws contained no provisions preventing enslaved or free men of color from serving as hired substitutes. In June 1778, for example, the state legislature ordered 1,800 men to serve six months in Rhode Island. Recruiting orders instructed local militia officers to draft men into service “indiscriminately from the training band and alarm lists” and explicitly excluded “Indians, Negroes and Molattoes.” However, drafted men were given the option of paying a fine or procuring “some able-bodied man in his room” and extant militia records indicate that drafted men took advantage of this alternative to hire men of color to serve in their stead. When Medfield militia officers notified Nathan Coolidge that he had been drafted to serve in Rhode Island, he promptly hired James Arcules, a free African man living in the town, to take his place.⁶

The nebulous relationship between men of color and the state's militia only became more convoluted with regards to the Continental Army. Within hours after the end of fighting on April

⁴ The Provincial Congress recommended a reorganization of the militia on October 26, 1774. See *Journals of Each Provincial Congress of Massachusetts* (Boston: Dutton and Wentworth, 1838), pp. 31-34. For estimates on number of men of color serving on April 19, 1775, see: George Quintal, jr., *Patriots of Color: “A Peculiar Beauty and Merit:” African Americans and Native Americans at Battle Road & Bunker Hill* (Boston: Government Printing Office, 2004), pp. 21-22, 39.

⁵ See “An Act for forming and regulating the militia within the Colony of the Massachusetts Bay in New England...,” January 22, 1776, *Acts & Resolves*, v. V, p. 445 and “An Act for Providing a Reinforcement to the American Army,” November 14, 1776, *Acts & Resolves*, v. V, p. 595.

⁶ See “Resolves for raising men,” June 12, 1778, *Acts & Resolves*, v. XX, p. 441. For Medfield militia records, see Captain Sabin Mann's Medfield militia book, v. 76, pp. 141-202, *Muster Rolls of the Revolutionary War* (SC1/Series 57X), Massachusetts Archives. For background on James Arcules, see Quintal, *Patriots of Color*, p. 51.

19, thousands of Massachusetts militiamen gathered in makeshift military camps surrounding occupied Boston. Acting quickly to organize these short-term militia soldiers into a more permanent provincial army, the Provincial Congress issued a broadside on April 23, 1775 containing the “Establishment of forces now immediately to be raised for the Recovery and Preservation of our undoubted Rights and Liberties” and calling for the enlistment of 13,500 soldiers. Recruiting instructions placed no restrictions on who could join the army beyond enjoining officers to enlist none but “able-bodied and effective men.” Within days, regiments were organized from the soldiers stationed in Cambridge and Roxbury while newly-raised companies were forwarded from all over the state. Absent instructions to the contrary, recruiting officers proved reluctant to turn away “able-bodied” men of color, both enslaved and free. While leaders debated the merits and pitfalls of allowing slaves and freemen into the army, recruiting officers and individual men of color often took matters into their own hands.⁷

It was not until May that Massachusetts officials finally had time to address the question of soldiers of color in the ranks of the provincial army. On May 20, 1775, the Committee of Safety recommended to the Provincial Congress “that no slaves be admitted into this army upon any consideration whatever.” The legislature considered this resolution on June 6 but left the matter unresolved, perhaps recognizing that the provincial army had in large measure already been recruited and to discharge men of color from the ranks would unnecessarily deprive officers of able-bodied soldiers.

The matter resurfaced again after control of the army became the purview of the Continental Congress. When George Washington arrived to take command of the American forces in July, he was surprised to find so many “Boys, Deserters and negroes” in the ranks. Dismayed to find men of color serving alongside white soldiers, Washington responded by ordering Adjutant General Horatio Gates to issue instructions prohibiting the further enlistment of any “stroller, negro, or vagabond” into the Continental Army. By that point, however, more than 14,000 Massachusetts men had already been enlisted, including a sizeable number of free and enslaved men of color.⁸

Washington and the Continental Congress continued to attempt to restrict the enlistment of men of color. In October 1775, army generals met with a committee from Congress to discuss plans to reorganize the army. One of the questions posed at the conference was, “Ought not negroes to be excluded from the new enlistment, especially such as are slaves?” The assembly concluded that “they be rejected altogether.” In November, Washington accordingly issued orders that, “Neither Negroes, Boys unable to bare Arms, nor old men unfit to endure the fatigues of the campaign” were to reenlist in the army for the coming campaign. Again, individual officers and men of color took matters into their own hands by protesting these restrictions. On December 30, Washington gave in to the “numbers of Free Negroes [who] are desirous of inlisting” and gave recruiting officers permission to “entertain” any who applied. In January 1776, Congress

⁷ For recruiting instructions and enlistment papers, see *Journals of Each Provincial Congress*, April 21, 1775, p 519. The April 23, 1775 instructions for a military establishment are absent from the *Journals*. A copy of the broadside issued in conjunction with the establishment is in the Massachusetts Archives.

⁸ George Washington to John Hancock, July 10-[11], 1775, in Philander Dean Chase, ed., *The Papers of George Washington: Revolutionary War Series* (Charlottesville, Va.: University Press of Virginia, 1985), v. 1, p. 90. The new recruiting orders are in General Orders, July 10, 1775, *PGW:RS*, v. 1, p. 107. See also Quintal, *Patriots of Color*, p. 27 for a facsimile of the broadside containing these orders.

concurred with Washington's proposal to allow the reenlistment of "free negroes who had served faithfully in the army at Cambridge," but explicitly prohibited the recruitment of enslaved men into the Continental Army.⁹

For a variety of reasons, Massachusetts did not actively enforce this Congressional prohibition on enslaved soldiers. In general, Massachusetts leaders seem to have been torn between an understanding of liberty as extended to all men and an aversion to upsetting the fragile alliance that bound the northern and southern colonies together. Although the state's Congressional delegates soundly defeated a motion by South Carolinian Edward Rutledge to discharge all men of color from the Continental Army, officials in the Massachusetts legislature proved reluctant to officially sanction the enlistment of enslaved men. But as demands for the state's manpower came with increasing frequency in 1776 and 1777, the state government was just as reticent to limit the pool of potential recruits by excluding able-bodied individuals based on race or enslavement. Accordingly, Massachusetts never fully addressed the question of whether to allow slaves into the army. In January 1777, the state went so far as to lift the restriction excluding men of color from impressment into the Continental Army by ordering a draft of "all the Male Inhabitants... of Sixteen Years old and upwards without any Exceptions, Save the People called Quakers." In the state government's eyes, at least, service in the Continental Army would remain open to all "able-bodied men" regardless of color.¹⁰

What does this mean for the relationship between slavery and military service? At no time during the American Revolution did the Continental Congress or the Massachusetts government offer freedom to slaves in exchange for their enlistment in the army. This means that any negotiations on this subject took place between individuals, be it slaves and their owners, recruiting officers and men of color, or drafted men and black substitutes. Military service thus offered both enslaved and free men of color a small degree of latitude within which they could determine their own future. Unfortunately, the unofficial nature of these conversations means that very few have entered the historical record. Some slaves indeed seem to have earned manumission in return for military service. On June 15, 1776, Pomp Jackson, a slave owned by prominent Newburyport merchant Jonathan Jackson, enlisted in Colonel Edmund Phinney's Regiment. Four days later, Jonathan manumitted Pomp, offering as his reasons "the impropriety I feel... in beholding any person in constant bondage—more especially at a time when my country is so warmly contending for the liberty every man ought to enjoy..." Although the manumission document does not make an explicit connection between Pomp Jackson's enlistment and his subsequent freedom, the timing of the two events only four days apart can hardly be coincidental. In November 1776, Pomp Jackson reenlisted for the duration of the war and served as a fifer in Colonel Joseph Vose's Regiment until his discharge in June 1783.¹¹

⁹ Recruiting instructions and Washington's orders are found in: *Journals of Each Provincial Congress*, p. 592. For Washington's orders, see: Proceedings of a Council of War at Cambridge, October 8, 1775, *PGW:RS*, v. II, p. 125, 185-205, 353, and General Orders, December 30, 1775, *PGW:RS*, v. II, p. 620. The Congressional resolve on this issue is from: *Journals of the Continental Congress*, v. IV, p. 60, January 16, 1776.

¹⁰ For the Rutledge controversy, see New Jersey delegate Richard Smith's diary, September 26, 1775, in Paul H. Smith, et al., eds., *Letters of Delegates to Congress* 25 vols. (Washington DC: Library of Congress, 1976-2000), v. 2, p. 68. For the 1777 resolve drafting soldiers to serve in the Continental Army, see *Acts & Resolves*, v. XX, p. 102.

¹¹ On March 29, 1779, the Continental Congress recommended to the South Carolina and Georgia legislatures that steps be taken to enlist "three thousand able-bodied negroes" and to compensate owners at

But these cases often leave more questions than they do answers. Take, for example, the military career of Brister, a slave owned by John Cuming of Concord. Over the course of three separate enlistments between 1776 and 1778, Brister appears on surviving rolls under the name Brister Cuming. But on his fourth enlistment in July 1779—this time as a nine-month reinforcement for the Continental Army—his name appears on muster records as Brister Freeman. While this pinpoints a fairly narrow time window in which Brister adopted a new surname signifying his status as a freeman, it does not explicitly indicate how or why Brister came to consider himself free. It seems clear that his freedom was linked to military service, but a number of questions remain unanswered. Did John Cuming offer Brister freedom in exchange for service? Did Brister bargain with Cuming for his freedom by offering to serve? Or perhaps Brister earned his freedom by monetarily compensating Cuming with bounties and wages he received as a soldier?¹²

Occasionally, enslaved men managed to make use of military service as an avenue to freedom without their owner's consent. In March 1781, a nineteen-year-old enslaved man named Richard Hobby enlisted to serve three years in the Continental Army. Hobby marched to West Point where he remained until the winter of 1783 when his owner, Jonathan Hobby, appeared in camp to retrieve his wayward servant. Claiming that Richard had enlisted without permission, Jonathan demanded the slave be released from the army into his custody. A military court composed of white officers determined that Richard had legally enlisted and any prior claims on his servitude were secondary to the army's claim on his soldiering. Frustrated, Jonathan Hobby left West Point empty handed and Richard Hobby remained in the army.¹³

But this strategy did not always work out in favor of enslaved men. While Massachusetts officials may have been willing to look the other way when enslaved men enlisted in the army, when pressed by aggrieved slave owners they declined to set precedent by freeing enlisted slaves. For example, in early 1781, James Parks hired Bacchus Cochran to serve in the Continental Army for three years from the town of Lincoln. Shortly thereafter, John Codman and

continental expense. Slaves so enlisted were to "be emancipated and receive the sum of fifty dollars" at the close of their enlistment. Both states rejected the recommendation. See *Journals of the Continental Congress*, v. XIII, p. 386-388 and Philip S. Foner, "Black Soldiers and Sailors in the War for Independence," *History of Black America: From Africa to the Emergence of the Cotton Kingdom* (Westport, CT: Greenwood Press, 1975). For Pomp Jackson, see William Cooper Nell, *Colored Patriots of the American Revolution* (Boston: Territon and Sons, 1855), pp. 42-43 and *Massachusetts Soldiers & Sailors*, v. 8, p. 685.

¹² Entries in *Massachusetts Soldiers & Sailors*: Preston Commings, v. 3, p. 865; Bristol Cuming, v. 4, p. 207, Brister Cummings, v. 4, p. 214; and Brister Freeman, v. 6, p. 32. All of these entries under various spellings undoubtedly refer to the same individual. Upon closer examination of the muster roll for Captain Zachariah Fitch's company in 1776, it is clear that the clerk wrote "Breston Commings," not "Preston" as included in *Soldiers & Sailors*. The original roll is in: v. 52, p. 40, *Muster Rolls of the Revolutionary War* (SC1/Series 57X), Massachusetts Archives. Brister Freeman's age, physical description, and hometown indicate that he is the same individual as Brister Cuming. See also Elise Lemire, *Black Walden: Slavery and Its Aftermath in Concord, Massachusetts* (Philadelphia: University of Pennsylvania Press, 2009), pp. 108-109. Brister Freeman only enlisted for nine months in 1779, not three years as Lemire claims.

¹³ Entry for Richard Hobby, *Massachusetts Soldiers & Sailors of the Revolutionary War* (Boston: Wright & Potter, 1932), v. 8, p. 21; "Proceedings of a Court of Inquiry," February 3, 1783, Papers of George Washington, Series 4: General Correspondence, 1697-1799, Library of Congress; David Humphreys to Jonathan Hobby, Newburgh, February 7, 1783, Washington Papers, Series 4, LoC.

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Chambers Russell appeared at Parks' house and complained that Cochran was a slave belonging to the Russell family and had enlisted without permission. When Russell and Codman brought their case to the state legislature, Massachusetts officials ruled that enslaved men could not be enlisted without their owner's permission. Richard Hobby and Bacchus Cochran's wildly divergent experiences with military life highlight the tangled, overlapping jurisdictions governing slave experiences in the Continental Army.¹⁴

Men of color also managed to obtain sizeable recruiting bounties, often the same as those offered to white soldiers. In 1777, Muster Master James Hatch reported paying a Continental bounty of six dollars and a state bounty of twenty dollars to hundreds of soldiers in Plymouth County, including Aesop Jacobs and Asher Freeman, both described as "negro." Similarly, the signature of Newport Deblois, a thirty-year-old man described as having a "black" complexion, appears with several others on an enlistment document agreeing to serve six months in the Continental Army in 1780. Deblois and the others are noted as having received their bounty from the town of Boston.¹⁵

Whenever the size of bounty payments were not regulated by law, the amount paid to recruits probably depended heavily on the negotiating skills of the parties involved. Here, of course, were the most flagrant opportunities for abuse. One document, dated 1781, lists bounties paid to soldiers enlisting in the Continental Army for three years by the town of Hingham. The amounts range from £93 to £54. The list includes a number of African soldiers: Juba Freeman and Lot Lincoln each received £60, Fortune Freeman received £67.10 and Caesar Blake took in £72 for three years' service in the Continental Army. Although some white soldiers received upwards of £94 for their services, others received similar amounts as the men of color. A similar document from the town of Northampton indicates that enslaved men Primus Jackall and Pelatiah McGoldsmith received almost two hundred pounds in silver to serve three years in the Continental Army.¹⁶

Of course, ambiguities in the recruiting laws meant that white slave owners could exploit their enslaved servants in exchange for lucrative returns in bounties and military wages. When Medfield militia officers drafted John Green for service in 1776, he promptly sent his slave Warwick in his stead. For Green, sending an enslaved substitute meant that an "able-bodied" man could be procured at little to no cost in bounty money, and Green probably received his slave's wages in return. And in 1778, Doctor Israel Ashley of Westfield offered his slave Gillam as a nine-month levy in the Continental Army. Doctor Ashley gave Gillam thirty pounds for his service and pocketed the rest of the slave's bounty money. When Gillam's term of service ended, the Doctor sent the enslaved man back into the service, explaining that he would "receive for the

¹⁴ Petition of James Parks, April 1781, and subsequent resolve, v. 232, p. 1, *Massachusetts Archives Collection* (SC1/Series 45X), Massachusetts Archives. Hobby's fate was decided by the army; Cochran's by the legislature. Army officers were far less reluctant to upset socially and politically powerful slave owners and far more concerned with maintaining the army's strength.

¹⁵ James Hatch, muster returns, v. 42, pp. 275, 311-334, *Muster Rolls of the Revolutionary War* (SC1/Series 57X), Massachusetts Archives. Entry for Newport Deblois in *Massachusetts Soldiers & Sailors*, v. 4, p. 630.

¹⁶ [Amounts paid by the town of Hingham to three-year recruits for the Continental Army, 1781], no date, v. 32, p. 179, *Muster Rolls of the Revolutionary War* (SC1/Series 57X), Massachusetts Archives. Josiah H. Temple, *History of the Town of Palmer, Massachusetts, Early Known as the Elbow Tract: Including Records of the Plantation, District, and Town. 1716-1880* (Palmer: Published by the Town, 1889), p. 196.

Service of a few Months, One Thousand Dollars, and perhaps more” as soon as Gillam enlisted again. Similarly, neither Pelatiah McGoldsmith nor Primus Jackall received the lucrative cash bounties the town of Northampton promised them. Instead, the money went to their white owners.¹⁷

The evidence indicates that military service offered enslaved men limited opportunities to negotiate their freedom, either with white owners, with local officials, or with army officers. The convoluted nature of Revolutionary enlistment regulations proved both a blessing and a liability. On the one hand, the lack of centralized oversight coupled with local traditions allowing men of color limited service with the militia meant that the Revolutionary armies remained open to African men enslaved and free. On the other hand, the absence of any regulations governing their enlistment ensured that enslaved men could still find themselves subjected to the whims of their white owners and government officials.

¹⁷ For John Green and his slave Warwick, see *Massachusetts Soldiers & Sailors*, v. 6, p. 816. For Gillam Ashley, see General Horatio Gates to the Massachusetts Council, July 2, 1779, v. 201, pp. 138-140, *Massachusetts Archives Collection* (SC1/Series 45X), Massachusetts Archives. Temple, *History of the Town of Palmer*, p. 196.